IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Revision No. 213 of 1992

Date of Decision :- March 29, 2007

Balbir Singh .... PETITIONER

VERSUS

State of Punjab ....RESPONDENT

CORAM: HON'BLE MR. JUSTICE MEHTAB S.GILL

Present:- Mr. Y.M.Bhagirath, Advocate
for the petitioner.

Mr. S.S.Randhawa, Senior D.A.G. Punjab.

MEHTAB S.GILL, J.

This is a revision against the judgment dated 14.3.1992 of the Additional Sessions Judge, Patiala, affirming the judgment/order dated 14.7.1988 of the Judicial Magistrate 1st Class, Nabha, whereby he convicted Balbir Singh son of Kartar Singh under Section 408 IPC and sentenced him to undergo R.I. for two years and to pay a fine of Rs.1,800/-, in default to further undergo R.I. for six months.

The case of the prosecution is that the petitioner/accused was working as Secretary of Cooperative Agricultural Services Society, Nohra (hereinafter called as the Society). He collected Rs.10,790/- from Jeon Singh, Rs.502/- from Fakiria Khan, Rs.1035/- from Mohd. Sadiq, Rs.4000/- from Inder Singh and some other persons. He embezzled a total amount of Rs.18,068.25p. He also embezzled 261 bags of Urea valuing Rs.2,81,227.75 p. Further he embezzled 56 litres of Machiate pesticide valued at Rs.4,271/-.

The prosecution to prove its case brought into the witness box Mohd. Sadiq PW1, Mohinder Singh PW2, Faquiria Khan PW3, Inder Singh PW4, Pawan Kumar PW5, Pritam Singh Constable PW6, Sohan Singh PW7, Balbir Singh Inspector PW8, Nahar Singh PW9, Mohan Lal PW10 and Darshan Singh PW11.

Learned counsel for the petitioner has argued, that the petitioner/accused was the Secretary of the Society. Cash is handled by the cashier of the Society. In this case Balbir Singh Cashier, was dealing with all money transactions. Faqiria Khan PW3 has admitted, that he returned the amount of loan to the cashier and the petitioner has made only entries in the books of accounts. Mohd. Sadiq PW1 in his statement before Court could not tell as to when he returned the loan amount allegedly given to him.

Learned counsel for the State has argued, that it is a case, where the documentary evidence is overwhelmingly against the petitioner. The cash book, accounts books and other books, where the entries of cash are made, have the signatures of the petitioner. Entries have been made by

the petitioner in the pass book Ex.P1, at portions Ex.PA and Ex.PB for Rs. 1,000/- and Rs.45/- respectively as interest. The signatures of the petitioner are very much present on this document. Statements of Mohinder Singh PW2, Faquiria Khan PW3 and Inder Singh PW4 clearly show, that the amount of loan money was returned to the petitioner and not to the cashier.

I have heard the learned counsel for the parties, perused the impugned judgments and the record, with their assistance.

Mohd. Sadiq PW1, Mohinder Singh PW2, Faquiria Khan PW3 and Inder Singh PW4 have stated in unison, that the loan amount was returned to the petitioner and it was he who made entries in the pass books in their presence. The signatures on the pass books are that of the petitioner. They have also stated the purpose of the loan advanced to them. Nothing has been put to these witnesses, that they are deposing falsely or they are inimical towards the petitioner.

I do not find any infirmity in the judgment of the learned Additional Sessions Judge, Patiala. Conviction of the petitioner is maintained under Section 408 IPC.

Revision is of the year 1992 and the occurrence is of the year 1983. The sword of conviction is hanging over the head of the petitioner for the last 24 years. This itself is a punishment. Sentence of the petitioner is modified to that already undergone.

With the above modification in sentence, revision petition is dismissed.

Criminal Revision No. 213 of 1992

March 29, 2007 **(MEHTAB S.GILL)**
S.K.Arora **JUDGE**